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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,467	09/17/2001	Henry J. Riblet	81451CIP	9032

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EXAMINER
MORRISON, NASCHICA SANDERS

ART UNIT	PAPER NUMBER
3632	

DATE MAILED: 09/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)	
09/955,467	RIBLET, HENRY J.	
Examiner	Art Unit	
Naschica S Morrison	3632	

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 6/30/03.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-11, 20 and 21 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 5-11 is/are allowed.

6) Claim(s) 1-4, 20 and 21 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
4) Interview Summary (PTO-413) Paper No(s) _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____

DETAILED ACTION

This is the third Office Action for serial number 09/955,467, Improved Bracket Assembly Lock, filed on September 17, 2001. Claims 1-11, 20, and 21 are pending.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-4, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,970,277 to Riblet in view of U.S. Patent 4,597,471 to Anderson in view of U.S. Patent 4,308,934 to Jackson et al. (Jackson) and further in view of U.S. Patent 878,455 to Carter. Regarding claims 1-4, Riblet discloses a lock (11) comprising: an upright (U1) having a first surface (U1), a pair of side members (24, 25) pivotally coupled to an angle bracket (10) by a fulcrum bar (32); an inner jaw (27) and outer jaw (26) coupled to the side members (24, 25); wherein the inner jaw (27) is mounted beneath the plane defined by the fulcrum bar and an outer jaw (26). Riblet does not disclose one of the inner or outer jaws having a substantially flat contact surface adapted to contact the first surface of the upright (U1) over a planar region. Anderson discloses an apparatus for mounting on an upright (84) comprising an outer jaw having various contact surfaces (82, 158, 208, 280, 284, 290), which further include a flat contact surface (130) adapted to contact the upright over a planar region. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the surface of one of the inner and outer jaws to be flat as an

alternative means for gripping the upright as taught by Anderson (col. 6, lines 17 ff.). Riblet in view of Anderson discloses the lock as applied above but does not disclose the transverse cross-sectional area of the one of the inner and outer jaws being generally rectangular in shape. Jackson teaches a locking member (88) comprising an outer jaw (at 96 in Fig. 2) having a flat contact surface and a generally rectangular transverse cross-sectional area for mounting onto an upright (26). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the one of the inner and outer jaw to be generally rectangular in transverse cross-section because one would have been motivated to provide increased contact area between the upright and lock to enhance frictional gripping of the jaw upon the upright as inherently taught by Jackson and further since it has been held that a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Riblet in view of Anderson in view of Jackson discloses the lock as applied above but does not disclose one or both of the inner and outer jaws being capable of pivoting relative to the side members. Carter discloses an apparatus (Fig. 1) for mounting on an upright (5) having an outer jaw (15) pivotally mounted on a bar (14) coupled to a pair of side members (12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified one or both of the inner and outer jaws to be pivotally mounted to the side members by a bar because one would have been motivated to permit a rolling surface to provide a greater degree of frictional gripping action as taught by Carter (lines 60-64). Regarding claims 20 and 21, Riblet in view of

Anderson in view of Jackson in view of Carter does not disclose the upright being formed of metal or fiberglass. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the combination by forming the upright of various materials including metal and fiberglass since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as is well known in the art.

Allowable Subject Matter

Claims 5-11 are allowed.

Response to Arguments

Applicant's arguments with respect to claims 1-4, 20 and 21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: 2002/0179371 to Riblet discloses a lock assembly relevant to the present invention.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Naschica S. Morrison, whose telephone number is (703) 305-0228. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine telephone number for the Technology Center is (703) 872-9326 (formal amendments) or (703) 872-9327 (After Final amendment/communication).

Any inquiry of a general nature or relating to the status of this Application should be directed to the Technology Center receptionist at (703) 872-9325.


Naschica S. Morrison
Patent Examiner
Art Unit 3632
8/28/03


LESLIE A. BRAUN
SUPERVISORY PATENT EXAMINER